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16 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN FRANCISCO DIVISION

20 MICHAEL E. DAVIS, aka TONY DAVIS,
21 VINCE FERRAGAMO, and BILLY JOE
22 DUPREE, on behalf of themselves and all
others similarly situated,

23 Plaintiffs,

24 vs.

25 ELECTRONIC ARTS INC.,

26 Defendant.

CASE NO. 10-cv-3328 RS

STIPULATION AND [PROPOSED] ORDER
STAYING BRIEFING SCHEDULE AND
HEARING DATE ON DEFENDANT
ELECTRONIC ARTS INC.'S MOTION TO
STRIKE PURSUANT TO C.C.P. § 425.16
AND MOTION TO DISMISS

1 Pursuant to Civil Local Rule 6-2, the parties hereby submit this Stipulated Request for an
2 Order staying the briefing schedule and the hearing date on defendant Electronic Arts Inc.'s
3 ("EA") Motion to Strike Pursuant to C.C.P. § 425.16 (Docket No. 62) ("Anti-SLAPP Motion")
4 and EA's Motion to Dismiss (Docket No. 63).

5 WHEREAS, on January 6, 2011, pursuant to a stipulation to extend time to respond to the
6 First Amended Complaint, EA filed its original motion to dismiss and Anti-SLAPP Motion
7 (Docket No. 20), which was set for hearing February 24, 2011;

8 WHEREAS, on February 1, 2011, plaintiffs Michael E. Davis, Vince Ferragamo, and Billy
9 Joe Dupree (collectively "Plaintiffs") served written discovery on EA;

10 WHEREAS, the parties stipulated (Docket No. 33) to a briefing schedule and July 14,
11 2011 hearing date on EA's original motion to dismiss and Anti-SLAPP motion in order to allow
12 the parties time to meet and confer regarding Plaintiffs' proposed discovery, which stipulation the
13 Court subsequently entered (Docket Nos. 35 and 44);

14 WHEREAS, EA served objections to Plaintiffs' written discovery on March 4, 2011 and
15 the parties subsequently met and conferred regarding EA's responses to Plaintiffs' discovery but
16 were unable to resolve their differences regarding that discovery and therefore on April 28, 2011,
17 Plaintiffs filed a Motion to Compel Responses to Discovery (Docket No. 50);

18 WHEREAS, on May 4, 2011, Magistrate Judge Ryu set the hearing on Plaintiffs' Motion
19 to compel for June 16, 2011;

20 WHEREAS on May 18, 2011, this Court issued an Order (Docket No. 57) granting the
21 parties' proposed briefing schedule and hearing dates for EA's Anti-SLAPP Motion and Motion to
22 Dismiss, whereby EA's Anti-SLAPP Motion and Motion to Dismiss were to be filed on June 9,
23 2011, Plaintiffs' oppositions to these motions were due on July 21, 2011, EA's reply briefs were
24 due on August 4, 2011, and a hearing date for EA's motions was set for August 25, 2011;

25 WHEREAS, pursuant to that stipulation and order, EA filed both its Anti-SLAPP Motion
26 and Motion to Dismiss on June 9, 2011 (Docket Nos. 62 & 63);

27 WHEREAS, on June 16, 2011, Magistrate Judge Ryu issued a Minute Order (Docket No.
28 69) granting in part and denying in part Plaintiffs' motion to compel and ordered EA to respond to

1 certain interrogatories, requests for admission, and requests for production of documents by July
2 7, 2011 so that Plaintiffs could incorporate the discovery into their Oppositions to EA's Anti-
3 SLAPP Motion and Motion to Dismiss;

4 WHEREAS, on June 30, 2011, EA filed a Motion for Relief from Non-Dispositive Pre-
5 Trial Order ("Motion for Relief") (Docket No. 71) objecting to Magistrate Judge Ryu's discovery
6 Order;

7 WHEREAS, on July 5, 2011 Magistrate Judge Ryu issued a written Order Granting In Part
8 Plaintiffs' Motion To Compel (Docket No. 73);

9 WHEREAS, on July 8, 2011, the Court issued an Order Setting Briefing Schedule on EA's
10 Motion for Relief (Docket No. 74) whereby EA has until July 15, 2011 to file a supplemental brief
11 and Plaintiffs have until July 29, 2011 to file an opposition;

12 WHEREAS, Plaintiffs requested that EA agree to a stay on the briefing and hearing of
13 both the Anti-SLAPP Motion and Motion to Dismiss (Docket Nos. 62 & 63) pending resolution
14 of the parties' discovery disputes and EA's objection to Magistrate Judge Ryu's Orders;

15 WHEREAS, EA contends that a stay on the briefing and hearing of EA's Motion to
16 Dismiss is not necessary because it is a Rule 12(b)(6) that does not require discovery, but
17 nevertheless agrees to Plaintiffs' request so that EA's Anti-SLAPP motion and Motion to Dismiss
18 may be heard together;

19
20 THEREFORE, the parties hereby stipulate as follows:

21 **STIPULATION**

22 1. Plaintiffs and EA, by and through their undersigned counsel, hereby stipulate and
23 respectfully request a stay of the briefing and hearing on EA's and Anti-SLAPP Motion and
24 Motion to Dismiss (Docket Nos. 62 & 63) pending resolution of the parties' dispute regarding
25 discovery.

26 2. After resolution of the parties' discovery dispute and objection to Magistrate Judge
27 Ryu's Orders, the parties agree to meet and confer to propose an appropriate schedule for
28 resolution of EA's Anti-SLAPP Motion and Motion to Dismiss (Docket Nos. 62 & 63).

Both parties agree to the stipulation as indicated by their signatures below. The parties respectfully request that the Court approve the stipulation. A form of the proposed Order is filed herewith.

Dated: July 13, 2011

THOMAS WHITELAW & TYLER, LLP

By: /s/ Brian D. Henri
 BRIAN D. HENRI
 Attorneys for Plaintiffs MICHAEL
 DAVIS, VINCE FERRAGAMO, and
 BILLY JOE DUPREE

Dated: July 13, 2011

KEKER & VAN NEST LLP

By: /s/ R. James Slaughter
 R. JAMES SLAUGHTER
 R. ADAM LAURIDSEN
 Attorneys for Defendant
 ELECTRONIC ARTS INC.

Pursuant to General Order No. 45, Section 10(b), Brian D. Henri, the efiler of this stipulation, hereby attests that R. James Slaughter concurs in the efilings of this stipulation.

[PROPOSED] ORDER

The Court, having considered the above joint request and good cause appearing therefore, HEREBY ORDERS as follows:

- 1) The briefing schedule and hearing date on EA's and Anti-SLAPP Motion and Motion to Dismiss (Docket Nos. 62 & 63) is stayed pending resolution of the parties' dispute regarding discovery;
- 2) After resolution of the parties' discovery dispute and objections to Magistrate Judge Ryu's Discovery Orders (Docket Nos. 69 and 73), the parties shall

1 promptly meet and confer to propose an appropriate schedule for resolution of
2 EA's Motion to Strike Pursuant To C.C.P. § 425.16 and Motion to Dismiss
3 (Docket Nos. 62 & 63).

4 IT IS SO ORDERED.

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6 Dated: 7/14, 2011

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9 HON. RICHARD SEEBORG
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF
12 CALIFORNIA
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